

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
CARBONLITE HOLDINGS LLC, et al., ¹	Case No. 21-10527 (JTD)
Debtors.	Jointly Administered
BAHRAM NOUR-OMID, an individual, and LEARNICON LLC, a Delaware limited liability company,	Adv. No. 21-50317 (JTD)
Plaintiffs, v. CARBONLITE HOLDINGS LLC, a Delaware limited liability company, LF INVESTMENT HOLDINGS, LLC, a Delaware limited liability company, LEON FARAHNIK, an individual, KIM JEFFERY, an individual, FARAMARZ YOUSEFZADEH, an individual, ORION ENERGY CREDIT OPPORTUNITIES FUND II, L.P., a Delaware limited partnership, ORION ENERGY CREDIT OPPORTUNITIES FUND II PV, L.P., a Delaware limited partnership, ORION ENERGY CREDIT OPPORTUNITIES FUND II GPFA, L.P., a Delaware limited partnership, FORCE TEN PARTNERS, LLC, a Delaware limited liability company, BRIAN WEISS, an individual, and DOES 1 through 50, inclusive,	Related to Dkt. Nos. 10, 11, 24, 30

**DECLARATION OF BRIAN WEISS IN SUPPORT OF
SUPPLEMENTAL MOTION OF DEBTOR CARBONLITE
HOLDINGS LLC TO DISMISS FIRST AMENDED COMPLAINT OR,
ALTERNATIVELY, TO STAY THIS LITIGATION AS TO ALL PARTIES**

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: CarbonLite Holdings LLC (8957); CarbonLite Industries LLC (3596); CarbonLite P Holdings, LLC (8957); CarbonLite P, LLC (5453); CarbonLite PI Holdings, LLC (8957); CarbonLite PinnPack, LLC (8957); CarbonLite Recycling Holdings LLC (8957); CarbonLite Recycling LLC (3727); CarbonLite Sub-Holdings, LLC (8957); PinnPack P, LLC (8322); and PinnPack Packaging, LLC (9948). The address of the Debtors' corporate headquarters is 10250 Constellation Blvd., Los Angeles, CA 90067.

Pursuant to 28 U.S.C. § 1746, I, Brian Weiss, hereby declare as follows under the penalty of perjury to the best of my knowledge, information, and belief:

1. I submit this declaration (the “Declaration”) in support of the *Supplemental Motion of Debtor CarbonLite Holdings LLC to Dismiss First Amended Complaint or, Alternatively, to Stay this Litigation as to All Parties* [Docket No. 30] (the “Supplemental Motion”).²
2. I am the Chief Restructuring Officer (the “CRO”) of CarbonLite Holdings LLC (“Holdings”) and its debtor affiliates in the above-captioned chapter 11 cases (together with Holdings, the “Debtors”). I am a partner and co-founder of Force Ten Partners, LLC (“Force 10”), an advisory firm specializing in corporate restructuring, challenged business situations, litigation support, and special situations. I, and my colleagues at Force 10, have substantial experience with providing chief restructuring officer services for entities that have filed for relief under chapter 11 of the Bankruptcy Code including analyzing business operations, financial modeling, operational analyses, capital raising, asset sales, serving in the capacity of financial advisor, and developing reorganization strategies.

3. I have served as CRO of the Debtors since December 10, 2020 and, from October 1, 2020 through December 9, 2020, I and Force 10 performed certain services at the request of Holdings’ board of directors. On March 8, 2021 (the “Petition Date”), the Debtors each commenced a voluntary case under chapter 11 of the Bankruptcy Code in this Court, and they continue to manage their assets as debtors in possession. I am knowledgeable and familiar

² Capitalized terms not otherwise defined in this Declaration shall have the meanings ascribed to them in the Supplemental Motion.

with the Debtors' day-to-day business affairs, books and records, and the circumstances leading to the commencement of these cases. Except as otherwise indicated herein, the facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents, information provided to me by employees of or advisors to the Debtors, or my opinion based upon my experience, knowledge, and information concerning the Debtors' affairs. If called upon to testify, I would testify competently to the facts set forth in this Declaration on that basis.

4. Holdings is the only Debtor Defendant in the above-captioned adversary proceeding. I and Force 10 are also named Defendants.

5. Since the Petition Date and consistent with various orders of this Court, the Debtors have successfully sold substantially all of their assets, including facilities in Riverside, California and Oxnard, California (Pinnpack).

6. Holdings is the Borrower under that certain *Credit Agreement* with Defendants Orion Energy Credit Opportunities II, L.P., Orion Energy Credit Opportunities II PV, L.P., and Orion Energy Credit Opportunities II GPFA, L.P. (together, "Orion"), as lenders, originally dated as of August 2, 2019 (as amended, the "Credit Agreement"), pursuant to which certain of the Debtors (the "Applicable Debtors")³ borrowed over \$90 million in three tranches: Tranche A Loans, in the amount of \$80,000,000; Tranche B Loans, in the amount of \$5,250,000; and Tranche C Loans, in the amount of \$5,484,035.34. The Orion entities are the only lenders under the Credit Agreement; however, Orion sold a 100% participation interest in the Tranche B

³ The Applicable Debtors party to the Credit Agreement are: CarbonLite Holdings LLC; CarbonLite Industries LLC; CarbonLite PI Holdings, LLC; CarbonLite PinnPack, LLC; CarbonLite Sub-Holdings, LLC; PinnPack P, LLC; and PinnPack Packaging, LLC.

Loans (the “Participation”) to Defendant LF Investment Holdings, LLC “LFIH”), an affiliate of Defendant Leon Farahnik in October 2020. Plaintiff Learnicon LLC, which is controlled through its managing member Plaintiff Nour-Omid, allegedly acquired the Participation from LFIH in February 2021.

7. Orion is also a postpetition lender to the Applicable Debtors, including Holdings. Specifically, the Applicable Debtors were authorized by this Court to borrow up to \$20,000,000 in new money advances from Orion and to roll-up one-half of the Tranche A Loans in the principal amount of \$40,000,000, plus the full amount of the Tranche C Loans (together, the “DIP Loans”).

8. Through the sale of the Riverside facility that closed on or about June 9, 2021, Orion recovered \$11,303,268 in cash proceeds, \$21,000,000 in notes issued by the buyer of that facility, and \$13,500,000 in assessed value from equity securities in the buyer of that facility. The DIP Loans that remained outstanding after such partial payoff totaled \$4,130,876 in new money DIP Loans and \$14,680,766 in rolled-up DIP Loans. A true and correct copy of the partial payoff letter between the Applicable Debtors and Orion with respect to the proceeds of the Riverside facility is attached hereto as Exhibit A.

9. Through the sale of the Pinnpack/Oxnard facility that closed on or about June 23, 2021, Orion recovered \$8,168,261 in cash proceeds. The DIP Loans that remained outstanding after such partial payoff totaled \$0 in new money DIP Loans and \$6,512,505 in rolled-up DIP Loans. A true and correct copy of the partial payoff letter between the Applicable

Debtors and Orion with respect to the proceeds of the Pinnpack/Oxnard facility is attached hereto as **Exhibit B**.

10. In sum, notwithstanding the foregoing partial payoffs, the sum of \$6,512,505 in DIP Loans remains due and owing by the Applicable Debtors to Orion.

11. All of the Tranche A Loans that were not rolled up into the DIP Loans also remain outstanding. Such Tranche A Loans, which are held by Orion, total \$40,000,000 in principal amount, plus any applicable accrued interest and fees.

12. There are no other material assets available for distribution to Orion in the Applicable Debtors' bankruptcy cases that would significantly reduce the outstanding obligations owed by the Applicable Debtors to Orion under the Credit Agreement. Orion has also agreed with the Official Committee of Unsecured Creditors in these cases not to participate in distributions by the Applicable Debtors derived from the proceeds of avoidance actions or commercial tort claims.

13. Hence, Orion will not realize anywhere near a full recovery of its Tranche A Loans in the Applicable Debtors' cases, much less a full recovery on its outstanding DIP Loans.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: June 25, 2021

/s/ Brian Weiss

Brian Weiss